



NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC-2023-0050]

RIN 3150-AK93

List of Approved Spent Fuel Storage Casks: TN Americas LLC

NUHOMS® EOS Dry Spent Fuel Storage System

Certificate of Compliance No. 1042, Amendment No. 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System listing within the “List of approved spent fuel storage casks” to include Amendment No. 3 to Certificate of Compliance No. 1042. Amendment No. 3 revises the certificate of compliance to add three new heat load zone configurations, add a variable-lead thickness transfer cask, add ATRIUM 11 fuel as an allowable content, update the criticality evaluation, allow ultrasonic testing of the outer top cover plate weld, reduce the time limit for transfer of two heat load zone configurations, incorporate a method to determine new loading patterns, waive a fabrication pressure test requirement, and make conforming changes for consistency and terminology clarification. Amendment No. 3 also includes additional changes associated with consideration of severe weather, maintaining water in the annulus, and design changes to the Matrix Loading Crane.

DATES: This direct final rule is effective [INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], unless significant adverse comments are received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE

FEDERAL REGISTER]. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the *Federal Register*. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the *Federal Register*.

ADDRESSES: Submit your comments, identified by Docket ID NRC-2023-0050, at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Christian Jacobs, telephone: 301-415-6825, e-mail: Christian.Jacobs@nrc.gov or Caylee Kenny, telephone: 301-415-7150, e-mail: Caylee.Kenny@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2023-0050 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2023-0050. Address questions about NRC dockets to Dawn Forder, telephone: 301-415-3407, email: Dawn.Forder@nrc.gov. For technical questions contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

- **NRC's PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

Please include Docket ID NRC-2023-0050 in your comment submission. The NRC requests that you submit comments through the Federal rulemaking website

at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This rule is limited to the changes contained in Amendment No. 3 to Certificate of Compliance No. 1042 and does not include other aspects of the TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System design. The NRC is using the “direct final rule procedure” to issue this amendment because it represents a limited and routine change to an existing certificate of compliance that is expected to be non-controversial. Adequate protection of public health and safety continues to be reasonably assured. The amendment to the rule will become effective on **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. However, if the NRC receives any significant adverse comment on this direct final rule by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, then the NRC

will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the *Federal Register* or as otherwise appropriate. In general, absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

3) The comment causes the NRC to make a change (other than editorial) to the rule, certificate of compliance, or technical specifications (TS).

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, states that

“[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.” Section 133 of the Nuclear Waste Policy Act states, in part, that “[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [*sic*: 218(a)] for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled “Approval of Spent Fuel Storage Casks,” which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on March 24, 2017 (82 FR 14987), that approved the TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1042.

IV. Discussion of Changes

On March 31, 2021, TN Americas LLC submitted a request to the NRC to amend Certificate of Compliance No. 1042. TN Americas LLC supplemented its request on the following dates: June 23, 2021, August 4, 2021, September 3, 2021, October 22, 2021, November 30, 2021, February 25, 2022, June 7, 2022, June 29, 2022, September 30, 2022, October 31, 2022, November 14, 2022, and December 21, 2022. The applicant

requested nine changes to the CoC in its initial submittal, and then requested three additional changes in later submittals.

Amendment No. 3 revises the certificate and compliance and technical specifications (TS) to make the following nine changes that were requested in the March 31, 2021, submittal:

- Add three new heat load zone configurations (HLZCs) No. 4, 5, and 6 for the EOS-89BTH Dry Shielded Canister (DSC). This change includes a revision to the maximum heat load of the of the EOS-89BTH DSC to 48.2 kW per DSC, and the maximum heat load for any single assembly to 1.7 kW. This revision reduces the minimum cooling time from two years to one year.
- Add a variable-lead thickness EOS-TC125 transfer cask with minimum and maximum values for thickness for use with the EOS-89BTH DSC to decrease the lead thickness from the previously analyzed design.
- Add ATRIUM 11 fuel as an allowable content in the EOS-89BTH DSC to allow offloading of pools with this fuel type. This change also reran the limiting GNF2 and ABB-10-C fuel type cases to reduce the statistical uncertainties and increase the enrichment limits.
- Update the criticality evaluation to allow “short-loading” configurations of Boiling Water Reactor fuel in the EOS-89BTH DSC with less than 89 fuel assemblies to increase the enrichment limits.
- Revise the TS to allow for phased array automated ultrasonic testing and utilize a single pass high amperage gas tungsten arc weld or multipass gas tungsten arc weld on the outer top cover plate. This change allows for the use of a single high amperage gas tungsten arc weld for a faster weld, resulting in less occupational exposure. This change also allows for the use of ultrasonic testing to verify the weld, which allows for more stringent weld examination.

- Revise the TS to reduce EOS-37PTH HLZCs 1 and 2 time limit for transfer to eight hours to make the time limit for transfer consistent among EOS-37PTH DSC's with transfer time limits.
- Incorporate a method to determine new loading patterns based on the maximum allowable heat load per DSC and per location specified in the TS. All HLZCs and time limits for transfer for the EOS-89BTH DSC transferred in the EOS-TC125 are moved from the TS to the Updated Final Safety Analysis Report (UFSAR) Chapter 2. This introduces the ability to allow flexibility in developing heat loading plans, in particular when performing full-core offload of shutdown cores.
- Waive the fabrication pressure test required in American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section III, NB-6000 for the EOS-37PTH and the EOS-89BTH DSCs with a single piece bottom forging.
- Make conforming changes to TS and USFAR for consistency among DSC types and terminology clarification.

In addition to the nine changes requested by applicant in their letter dated March 31, 2021, the applicant requested three additional scope changes in letters dated October 22, 2021, June 29, 2022, and September 30, 2022. The three additional scope changes include:

- UFSAR revisions associated with transfer cask lifting heights and consideration of severe weather. The revisions include a revised definition of "Safe Condition and Forecast" within the UFSAR to incorporate other forecasted weather conditions where the wind gust is expected to exceed the off-normal design condition operating wind limit of 44mph as defined in ASME NOG-1 with respect to the independent spent fuel storage installation (ISFSI) equipment Matrix Loading Crane (MX-LC).

- UFSAR revisions associated with maintaining water in the annulus by preventing and mitigating boiling occurring in the water in the TC/DSC annulus through demineralized water replenishment operations.
- Design changes to the MX-LC, including use of wheel chocks, to allow the MX-LC to be used as a single-failure-proof handing device to load DSCs into the HSM-MX above the maximum lifting height. This revision does not apply to the transfer and retrieval of the NUHOMS® 61BTH Type 2 DSC to and from the HSM-MX using the MX-LC, which has not been analyzed or approved for use under Amendment No. 3.

The changes to the aforementioned documents are identified with revisions bars in the margin of each document.

As documented in the preliminary safety evaluation report, the NRC performed a safety evaluation of the proposed certificate of compliance amendment request. The NRC determined that this amendment does not reflect a significant change in design or fabrication of the cask. Specifically, the NRC determined that the design of the cask would continue to maintain confinement, shielding, and criticality control in the event of each evaluated accident condition. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 3 would remain well within the limits specified by 10 CFR part 20, "Standards for Protection Against Radiation." Therefore, the NRC found there will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

The NRC determined that the amended NUHOMS® EOS Dry Spent Fuel Storage System cask design, when used under the conditions specified in the certificate of compliance, the TS, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be reasonably assured. When this direct final rule becomes effective, persons who hold a

general license under § 72.210 may, consistent with the license conditions under § 72.212, load spent nuclear fuel into TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System casks that meet the criteria of Amendment No. 3 to Certificate of Compliance No. 1042.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC revises the NUHOMS® EOS Dry Spent Fuel Storage System design listed in § 72.214, “List of approved spent fuel storage casks.” This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

Under the “Agreement State Program Policy Statement” approved by the Commission on October 2, 2017, and published in the *Federal Register* on October 18, 2017 (82 FR 48535), this rule is classified as Compatibility Category NRC – Areas of Exclusive NRC Regulatory Authority. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR chapter I. Therefore, compatibility is not required for program elements in this category.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to

write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885).

VIII. Environmental Assessment and Finding of No Significant Impact

Under the National Environmental Policy Act of 1969, as amended, and the NRC’s regulations in 10 CFR part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,” the NRC has determined that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

A. The Action

The action is to amend § 72.214 to revise the TN Americas LLC NUHOMS® EOS Dry Spent Fuel Storage System listing within the “List of approved spent fuel storage casks” to include Amendment No. 3 to Certificate of Compliance No. 1042.

B. The Need for the Action

This direct final rule amends the certificate of compliance for the TN Americas LLC NUHOMS® EOS Dry Spent Fuel Storage System design within the list of approved spent fuel storage casks to allow power reactor licensees to store spent fuel at reactor sites in casks with the approved modifications under a general license. Specifically, Amendment No. 3 revises the certificate of compliance to: add three new HLZCs for the EOS-89BTH DSC, with increased heat load up to 1.7 kW per fuel assembly, which reduces the minimum cooling time to one year; add a variable-lead thickness EOS-TC125 for transfer with the EOS-89BTH DSC; add ATRIUM 11 fuel as an allowable

content in the EOS-89BTH DSC and rerun the limiting GNF2 and ABB-10-C cases to reduce the statistical uncertainties and increase the enrichment limits; update the criticality evaluation to allow short-loading the EOS-89BTH DSC with less than 89 fuel assemblies to increase the enrichment limits; revise the TS to allow for phased array automated ultrasonic testing and utilize a single pass high amperage gas tungsten arc weld or multipass gas tungsten arc weld on the outer top cover plate; revise the TS to reduce EOS-37PTH HLZC 1 and 2 time limit for transfer to eight hours; incorporate a method to determine new loading patterns based on the maximum allowable heat load per DSC and per location specified in the TS and move all HLZCs and time limits for transfer for the EOS-89BTH DSC transferred in the EOS-TC125 from the TS to UFSAR Chapter 2; waive the fabrication pressure test requirement or the single bottom forging EOS-DSCs; and make minor changes to TS and USFAR for consistency among DSC types and terminology clarification. Additionally, Amendment No. 3 includes changes associated with consideration of severe weather; changes associated with maintaining water in the annulus; and design changes to the Matrix Loading Crane.

C. Environmental Impacts of the Action

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for this Amendment No. 3 tiers off the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

TN Americas LLC NUHOMS® EOS Dry Spent Fuel Storage System is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an ISFSI, the type of facility at which a holder of a power reactor operating license

would store spent fuel in casks in accordance with 10 CFR part 72, can include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

This amendment does not reflect a significant change in design or fabrication of the cask. Because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 3 would remain well within the 10 CFR part 20 limits. The NRC has also determined that the design of the cask as modified by this rule will maintain confinement, shielding, and criticality control in the event of an accident. Therefore, the proposed changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposures, and no significant increase in the potential for, or consequences from, radiological accidents. The NRC documented its safety findings in the preliminary safety evaluation report.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment No. 3 and not issue the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into the TN Americas LLC NUHOMS® EOS Dry Spent Fuel Storage System in accordance with the changes described in proposed Amendment No. 3 would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. The environmental impacts would be the same as the proposed action.

E. Alternative Use of Resources

Approval of Amendment No. 3 to Certificate of Compliance No. 1042 would result

in no irreversible commitment of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions." Based on the foregoing environmental assessment, the NRC concludes that this direct final rule, "List of Approved Spent Fuel Storage Casks: TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System, Certificate of Compliance No. 1042, Amendment No. 3," will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing collections of information were approved by the Office of Management and Budget, approval number 3150-0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the

requesting document displays a currently valid Office of Management and Budget control number.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and TN Americas LLC. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (§ 2.810).

XI. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if: 1) it notifies the NRC in advance; 2) the spent fuel is stored under the conditions specified in the cask's certificate of compliance; and 3) the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On March 24, 2017 (82 FR 14987), the NRC issued an amendment to 10 CFR part 72 that approved the TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System by adding it to the list of NRC-approved cask designs in § 72.214.

On March 31, 2021, and as supplemented on June 23, 2021, August 4, 2021, September 3, 2021, October 22, 2021, November 30, 2021, February 25, 2022, June 7, 2022, June 29, 2022, September 30, 2022, October 31, 2022, November 14, 2022, and December 21, 2022, TN Americas LLC submitted a request to amend the NUHOMS®

EOS Dry Spent Fuel Storage System as described in Section IV, "Discussion of Changes," of this document.

The alternative to this action is to withhold approval of Amendment No. 3 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System casks under the changes described in Amendment No. 3 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the preliminary safety evaluation report and environmental assessment, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory; therefore, this action is recommended.

XII. Backfitting and Issue Finality

The NRC has determined that the backfit rule (§ 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises Certificate of Compliance No. 1042 for the TN Americas LLC NUHOMS® EOS Dry Spent Fuel Storage System, as currently listed in § 72.214. The revision consists of the changes in Amendment No. 3 previously described, as set forth in the revised certificate of compliance and TS.

Amendment No. 3 to Certificate of Compliance No. 1042 for the TN Americas LLC NUHOMS® EOS Dry Spent Fuel Storage System was initiated by TN Americas LLC and was not submitted in response to new NRC requirements, or an NRC request for amendment. Amendment No. 3 applies only to new casks fabricated and used under Amendment No. 3. These changes do not affect existing users of the TN Americas LLC NUHOMS® EOS Dry Spent Fuel Storage System, and current Amendment Nos. 0-2 continue to be effective for existing users. While current users of this storage system may comply with the new requirements in Amendment No. 3, this would be a voluntary decision on the part of current users.

For these reasons, Amendment No. 3 to Certificate of Compliance No. 1042 does not constitute backfitting under § 72.62 or § 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, the NRC has not prepared a backfit analysis for this rulemaking.

XIII. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

DOCUMENT	ADAMS ACCESSION NO. / WEB LINK / <i>FEDERAL REGISTER</i> CITATION
Proposed Certificate of Compliance and Proposed Technical Specifications	
Proposed Certificate of Compliance No.1042 (Amendment No. 3)	ML23027A214

Proposed Certificate of Compliance No. 1042 Appendix A: NUHOMS® EOS System Generic Technical Specifications Amendment 3	ML23027A216
Preliminary Safety Evaluation Report for the NUHOMS® EOS System: Certificate of Compliance No. 1042 Amendment No. 3	ML23027A217
Environmental Documents	
Environmental Assessment for Proposed Rule Entitled, "Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites." (1989)	ML051230231
"Environmental Assessment and Finding of No Significant Impact for the Final Rule Amending 10 CFR Part 72 License and Certificate of Compliance Terms" (2010)	ML100710441
Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel: Final Report (NUREG-2157, Volumes 1 and 2) (2014)	ML14198A440 (package)
"Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites" Final Rule (July 18, 1990)	55 FR 29181
TN Americas, LLC, NUHOMS EOS Amendment 3 Application Documents	
TN Americas LLC Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 0 (March 31, 2021)	ML21102A281 (package)
TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 1 – Response to Request for Supplemental Information (June 23, 2021)	ML21174A231
TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 2 – Revised Response to OBS 4-6 (August 4, 2021)	ML21209A098
TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 3 – Revised Response to OBS 4-5 and Revised UFSAR Pages (September 3, 2021)	ML21246A136
TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 3a– Amendment Scope Change (October 22, 2021)	ML21295A260
TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 4 – Response to Request for Additional Information (November 30, 2021)	ML21334A206

TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 5 – Response to Request for Additional Information (New Scope) and Revised Responses to Request for Additional Information (February 25, 2022)	ML22056A458
TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 6 – Revised Responses to Request for Additional Information (June 7, 2022)	ML22158A293
TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 7 – Clarification Regarding Annulus Temperatures During Vacuum Drying Operations (June 29, 2022)	ML22180A266
TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 8 – ASME NOG-1 Compliance and the Matrix Loading Crane (September 30, 2022)	ML22273A031
TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 9 – Clarifications Regarding Annulus Water, MX-LC Alignment, and Seismic Damping Values (October 31, 2022)	ML22304A217
TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 10 – Additional Information regarding ASME NOG-1 Compliance and the Matrix Loading Crane (November 14, 2022)	ML22318A205
TN Americas LLC, Application for Amendment 3 to NUHOMS EOS Certificate of Compliance No. 1042, Revision 11 – Response to Request for Additional Information (New Scope Addition #3 – ASME NOG-1 Exceptions) and Clarifications Regarding Annulus Water (December 21, 2022)	ML22355A219
Other Documents	
Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites: Final Rule, dated July 18, 1990	55 FR 29181
List of Approved Spent Fuel Storage Casks: TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System, Certificate of Compliance No. 1042: Direct Final Rule, dated March 24, 2017	82 FR 14987

The NRC may post materials related to this document, including public

comments, on the Federal rulemaking website at <https://www.regulations.gov> under Docket ID NRC-2023-0050. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: 1) navigate to the docket folder (NRC-2023-0050); 2) click the “Subscribe” link; and 3) enter an email address and click on the “Subscribe” link.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

PART 72 - LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

2. In § 72.214, revise Certificate of Compliance No. 1042 to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * *

Certificate Number: 1042.

Initial Certificate Effective Date: June 7, 2017.

Amendment Number 1 Effective Date: June 17, 2020.

Amendment Number 2 Effective Date: October 26, 2021.

Amendment Number 3 Effective Date: **[INSERT DATE 75 DAYS AFTER
PUBLICATION IN THE *FEDERAL REGISTER*].**

SAR Submitted by: TN Americas LLC.

SAR Title: Final Safety Analysis Report for the NUHOMS® EOS Dry Spent Fuel
Storage System.

Docket Number: 72-1042.

Certificate Expiration Date: June 7, 2037.

Model Number: EOS-37PTH, EOS-89BTH, 61BTH Type 2.

* * * *

Dated: April 25, 2023.

For the Nuclear Regulatory Commission.

Catherine Haney,
Acting Executive Director for Operations.

[FR Doc. 2023-09358 Filed: 5/1/2023 8:45 am; Publication Date: 5/2/2023]